

Mike DeWine
Ohio Attorney General

Victoria D. Garry (Ohio Bar. No. 0037014)
Assistant Ohio Attorney General
Collections Enforcement
1600 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
(513) 852-1536
(513) 852-3484 (Fax)
e-mail: victoria.garry@ohioattorneygeneral.gov

Attorney for Ohio Department of Taxation

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re: : Case No. 08-35653 (KRH)
: Jointly Administered
CIRCUIT CITY STORES, INC., et al. : Chapter 11
: Debtors.

**RESPONSE OF OHIO DEPARTMENT OF TAXATION TO LIQUIDATING
TRUST'S TWENTY-SEVENTH OMNIBUS OBJECTION TO CLAIMS FILED
BY TAXING AUTHORITIES (REDUCTION OF PARTIALLY INVALID
CLAIMS; DISALLOWANCE OF NO LIABILITY, RESOLVED, AND LATE-
FILED CLAIMS)**

The Ohio Department of Taxation ("Tax"), by and through Ohio Attorney General Mike DeWine, hereby responds to the Liquidating Trust's Twenty-Seventh Omnibus Objection to Claims filed on November 14, 2011, (doc. # 11444). The Liquidating Trust asserts that claim number 523 filed by Tax in the amount of \$495,360.67 as a general unsecured claim should be disallowed and expunged. The Liquidating Trust asserts that the claim should be disallowed as the Liquidating Trust's books and records reflect no liability. According to the Liquidating Trust's books and

records, Circuit City Stores West, Inc. did not operate in Ohio and therefore the Corporate Franchise Tax is not owed. However, the records of Tax indicate that the entity did operate in Ohio and that the tax is owed. Under 11 U.S.C. Section 502, a proof of claim is deemed allowed unless an objection is filed to the same. As filed, the proof of claim “creates a *prima facie* valid claim”. The burden is on the objecting party, here, the Liquidating Trust, to “produce sufficient evidence to negate this *prima facie* validity of the claim”. In re Mission of Care, Inc., 164 B.R. 877 (Bankr.De.1994). The Liquidating Trust’s bare assertion that its records do not show any liability to Tax is insufficient to meet that burden.

Wherefore, for the above reasons, Tax respectfully requests that the Court deny the Liquidating Trust’s objection and allow the proof of claim as filed by Tax.

Respectfully submitted,

Mike DeWine
Ohio Attorney General

/s/ Victoria D. Garry

VICTORIA D. GARRY (0037014)
Assistant Attorney General
1600 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
(513) 852-1536
(513) 852-3484 (Fax)
victoria.garry@ohioattorneygeneral.gov
Attorney for Ohio Department of Taxation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Response to Liquidating Trust's Twenty-Seventh Omnibus Objection was served electronic filing this 29th day of December, 2011 upon the Service List.

/s/ Victoria D. Garry
VICTORIA D. GARRY (0037014)